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11 Attorneys for Plaintiff  
12 United States of America

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14 IN THE UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,  
17 Plaintiff,  
18 v.  
19 JUAN COMPARAN-GUZMAN, ET AL.  
20 Defendants.

21 CASE NO. 1:20-CR-00175-DAD-BAM  
22 STIPULATION REGARDING EXCLUDABLE  
23 TIME PERIODS UNDER SPEEDY TRIAL ACT;  
24 AND ORDER  
25 DATE: October 28, 2020  
26 TIME: 1:00 p.m.  
27 COURT: Hon. Barbara A. McAuliffe

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17 The United States of America, by and through MCGREGOR W. SCOTT, United States Attorney,  
18 and KATHLEEN A. SERVATIUS, Assistant United States Attorney, and the defendants, by and through  
19 their respective attorneys of record, hereby stipulate to continue the status conference in this case from  
20 October 28 2020 until March 17, 2021 at 1:00 p.m and for such time between those dates be excluded from  
21 the calculation as to the time within which the defendants should be tried.

22 On May 13, 2020, this Court issued General Order 618, which suspends all jury trials in the Eastern  
23 District of California until further notice. This General Order was entered to address public health concerns  
24 related to COVID-19. Further, pursuant to General Order 611, this Court's declaration of judicial emergency  
25 under 18 U.S.C. § 3174, and the Ninth Circuit Judicial Council's Order of April 16, 2020 continuing this  
26 Court's judicial emergency, this Court has allowed district judges to continue all criminal matters to a date  
27 after May 1, 2021.<sup>1</sup>

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1 A judge "may order case-by-case exceptions" at the discretion of that judge "or upon the request of  
2 STIPULATION REGARDING EXCLUDABLE TIME  
3 PERIODS UNDER SPEEDY TRIAL ACT  
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1       Although the General Orders address the district-wide health concern, the Supreme Court has  
 2 emphasized that the Speedy Trial Act's end-of-justice provision "counteract[s] substantive  
 3 openendedness with procedural strictness," "demand[ing] on-the-record findings" in a particular case.  
 4 *Zedner v. United States*, 547 U.S. 489, 509 (2006). "[W]ithout on-the-record findings, there can be no  
 5 exclusion under" § 3161(h)(7)(A). *Id.* at 507. Moreover, any such failure cannot be harmless. *Id.* at  
 6 509; *see also United States v. Ramirez-Cortez*, 213 F.3d 1149, 1153 (9th Cir. 2000) (explaining that a  
 7 judge ordering an ends-of-justice continuance must set forth explicit findings on the record "either orally  
 8 or in writing").

9       Based on the plain text of the Speedy Trial Act—which *Zedner* emphasizes as both mandatory  
 10 and inexcusable—General Orders 611, 612, and 617 require specific supplementation. Ends-of-justice  
 11 continuances are excludable only if "the judge granted such continuance on the basis of his findings that  
 12 the ends of justice served by taking such action outweigh the best interest of the public and the  
 13 defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). Moreover, no such period is excludable unless  
 14 "the court sets forth, in the record of the case, either orally or in writing, its reason or finding that the  
 15 ends of justice served by the granting of such continuance outweigh the best interests of the public and  
 16 the defendant in a speedy trial." *Id.*

17       The General Orders exclude delay in the "ends of justice." 18 U.S.C. § 3161(h)(7) (Local Code  
 18 T4). Although the Speedy Trial Act does not directly address continuances stemming from pandemics,  
 19 natural disasters, or other emergencies, this Court has discretion to order a continuance in such  
 20 circumstances. For example, the Ninth Circuit affirmed a two-week ends-of-justice continuance  
 21 following Mt. St. Helens' eruption. *Furlow v. United States*, 644 F.2d 764 (9th Cir. 1981). The court  
 22 recognized that the eruption made it impossible for the trial to proceed. *Id.* at 767-68; *see also United*  
 23 *States v. Correa*, 182 F. Supp. 326, 329 (S.D.N.Y. 2001) (citing *Furlow* to exclude time following the  
 24 September 11, 2001 terrorist attacks and the resultant public emergency). The coronavirus is posing a  
 25 similar, albeit more enduring, barrier to the prompt proceedings mandated by the statutory rules.

26       In light of the societal context created by the foregoing, this Court should consider the following  
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28       counsel, after consultation with counsel and the Clerk of the Court to the extent such an order will impact  
 court staff and operations." General Order 618, ¶ 7 (E.D. Cal. May 13, 2020).

1 case-specific facts in finding excludable delay appropriate in this particular case under the ends-of-  
2 justice exception, § 3161(h)(7) (Local Code T4).<sup>2</sup> If continued, this Court should designate a new date  
3 for the status conference. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any  
4 pretrial continuance must be “specifically limited in time”).

5 **STIPULATION**

6 Plaintiff United States of America, by and through its counsel of record, and defendant, by and  
7 through defendant's counsel of record, hereby stipulate as follows:

8 1. By previous order, this matter was set for a status conference on October 28, 2020.

9 2. By this stipulation, the parties now move to continue the status conference until March  
10 17, 2021, and to exclude time between October 28, 2020, and March 17, 2021, under Local Code T4.

11 3. The parties agree and stipulate, and request that the Court find the following:

12 a) The discovery associated with this case includes case includes voluminous  
13 investigative reports, wire interceptions recordings and electronic messages, precise location  
14 information data, totaling thousands of pages of discovery and several gigabytes of electronic  
15 data. The government has produced approximately five hundred pages of reports so far, and  
16 anticipates producing the additional discovery in the coming weeks and on an ongoing basis.

17 b) Counsel for defendants desire additional time to review discovery and to confer  
18 with their respective clients regarding a potential resolution of this matter.

19 c) Counsel for defendant believes that failure to grant the above-requested  
20 continuance would deny him/her the reasonable time necessary for effective preparation, taking  
21 into account the exercise of due diligence.

22 d) The government does not object to the continuance.

23 e) Based on the above-stated findings, the ends of justice served by continuing the  
24 case as requested outweigh the interest of the public and the defendant in a trial within the  
25 original date prescribed by the Speedy Trial Act.

26 f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,

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28 <sup>2</sup> The parties note that General Order 612 acknowledges that a district judge may make  
“additional findings to support the exclusion” at the judge’s discretion. General Order 612, ¶ 5 (E.D.  
Cal. March 18, 2020).

1 et seq., within which trial must commence, the time period of October 28, 2020 to March 17,  
2 2021, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code  
3 T4] because it results from a continuance granted by the Court at defendant's request on the basis  
4 of the Court's finding that the ends of justice served by taking such action outweigh the best  
5 interest of the public and the defendant in a speedy trial.

6 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the  
7 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial  
8 must commence.

9 IT IS SO STIPULATED.

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11 Dated: October 20, 2020

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McGREGOR W. SCOTT  
United States Attorney

/s/ KATHLEEN A.  
SERVATIUS  
KATHLEEN A. SERVATIUS  
Assistant United States Attorney

Dated: October 20, 2020

/s/ Anthony P. Capozzi  
Anthony P. Capozzi  
Counsel for Defendant  
Juan Alejandro Comparan-  
Guzman

Dated: October 20, 2020

/s/ Victor Manuel Chavez  
Victor Manuel Chavez  
Counsel for Defendant  
Quintin Jeuh Carlos-Banuelos

Dated: October 20, 2020

/s/ John Frederick Garland  
John Frederick Garland  
Counsel for Defendant  
Francisco Ramirez

1 Dated: October 20, 2020

/s/ Steven Leon Crawford

2 Steven Leon Crawford  
3 Counsel for Defendant  
4 Lorena Ramirez

5 Dated: October 20, 2020

/s/ John Alan Meyer

6 John Lana Meyer  
7 Counsel for Defendant  
8 Christina Maria Nino

9 Dated: October 20, 2020

/s/ Carrie C. McCreary

10 Carrie C. McCreary  
11 Counsel for Defendant  
12 Anna Concepcion Jimenez-  
13 Ambriz

14 Dated: October 20, 2020

/s/ Barbara Hope O'Neill

15 Barbara Hope O'Neill  
16 Counsel for Defendant  
17 Rafael Zaragoza

18 Dated: October 20, 2020

/s/ Robert Lamanuzzi

19 Robert Lamanuzzi  
20 Counsel for Defendant  
21 Carol Maldonado Vasquez

22 Dated: October 20, 2020

/s/ Carol Ann Moses

23 Carol Ann Moses  
24 Counsel for Defendant  
25 Rita Anne-Marie Louis

## ORDER

IT IS SO ORDERED that the Status Conference is continued from October 28, 2020 to **March 17, 2021, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe.** Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv).

IT IS SO ORDERED.

Dated: October 21, 2020

/s/ Barbara A. McAuliffe

UNITED STATES MAGISTRATE JUDGE